

**APR 10 2006**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RIGOBERTO VERDUZCO-AYALA,

Defendant - Appellant.

No. 05-50443

D.C. No. CR-04-02547-TJW

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Southern District of California  
Thomas J. Whelan, District Judge, Presiding

Submitted April 5, 2006<sup>\*\*</sup>

Before: HAWKINS, McKEOWN and PAEZ, Circuit Judges.

Rigoberto Verduzco-Ayala appeals from his conditional guilty plea conviction for being a deported alien found in the United States, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

de novo, *United States v. Ortiz-Lopez*, 385 F.3d 1202, 1203 (9th Cir. 2004) (per curiam), and we affirm.

Appellant contends that the district court erred by denying his motion to dismiss the indictment on the grounds that his prior removal was invalid. Specifically, he contends that, in his 2003 removal proceeding, the Immigration Judge (“IJ”) failed to inform him that he was eligible for a fast-track voluntary departure under 8 U.S.C. § 1229c(a)(1). We conclude that the IJ’s statements at the 2003 proceeding did advise appellant of his possible eligibility for relief under § 1229c(a)(1). *See United States v. Arrieta*, 224 F.3d 1076, 1079 (9th Cir. 2000).

**AFFIRMED.**